

## KDADS STANDARD POLICY

<b>Policy Name:</b>	Military Inclusion	<b>Policy Number:</b>	TBD
<b>Division:</b>	Community and Services Programs (CSP)	<b>Date Established:</b>	2/6/15
<b>Applicability:</b>	Home and Community Based Services (HCBS) Programs	<b>Date Last Revised:</b>	11/12/15
<b>Contact:</b>	<a href="mailto:HCBS-KS@kdads.ks.gov">HCBS-KS@kdads.ks.gov</a>	<b>Date Effective:</b>	12/1/2015
<b>Policy Location:</b>	<a href="https://www.kdads.ks.gov/commissions/csp/home-community-based-services-(hcbs)/hcbs-policies">https://www.kdads.ks.gov/commissions/csp/home-community-based-services-(hcbs)/hcbs-policies</a>	<b>Date Posted:</b>	11/1/2015
	Public Comment Period Revisions/11/12/15	<b>Number of Pages:</b>	5
<b>Revision History:</b>			

### PURPOSE

This policy was developed to provide active duty or honorably discharged military personnel and/or immediate family member priority access to the HCBS waiver programs within 30 days of separation from military service.

### SUMMARY

Active duty or honorably discharged military personnel and/or immediate family members are permitted to bypass the waitlist on HCBS programs in acknowledgment of their dedication and service to the United States of America.

### ENTITIES and INDIVIDUALS AFFECTED BY THIS POLICY

- Kansas Department for Aging and Disability Services (KDADS) – Program Managers
- Managed Care Organizations (MCOs) – Amerigroup Kansas, Sunflower Health Plan, United HealthCare
- “State-contracted Assessor” includes but not limited to the following entities:
  - Aging and Disability Resource Center (ADRCs)
  - Community Development Disability Organizations (CDDOs)
  - Community Mental Health Centers (CMHCs)
  - Autism Functional Eligibility Specialists
  - MATLOC Eligibility Specialists

### I. Policy

- A. Program eligibility determinations are made by KDADS for the Autism, Frail Elderly (FE), Intellectual and Developmental Disability (IDD), Technology Assisted (TA), Traumatic Brain Injury (TBI), Physical Disability (PD) and Serious Emotional Disturbance (SED) programs.

B. Reserved capacity for active or honorably discharged military personnel and/or immediate family members applies to the following HCBS programs for the term of the approved waiver authority:

- Autism
- FE
- IDD
- PD
- TA
- TBI
- SED

C. Active or honorably discharged military personnel (eligible military personnel) and/or immediate family members (eligible dependents) may bypass the HCBS program waitlists, and access services, if the following criteria are met:

1. An eligible military personnel shall be a resident of Kansas by maintaining or demonstrating the intent to make Kansas his or her principal place of residency. Consistent with K.S.A. 79-39,109 and K.A.R. .R. 95-12-4a, evidence supporting residency or the intent to establish residency, may include, but is not limited to, a combination of factors such as:
  - a. The eligible military personnel is registered to vote in Kansas;
  - b. The eligible military personnel has filed a Kansas resident income tax return for the most recent taxable year;
  - c. The eligible military personnel has current motor vehicle registration in Kansas; or
  - d. The eligible military personnel holds a current valid Kansas driver's license or non-driver identification card.
2. The individual who is seeking services is an eligible military personal or eligible military personnel's eligible dependent. An eligible dependent is an immediate family member who is qualifying dependent as defined by the Internal Revenue Service as evidenced by the most recent tax return or for events occurring after the most recent tax recent was files similar documentation such as marriage license, birth certificate, court order, adoption paperwork or similar documentation;
3. The eligible military personnel or eligible dependent is receiving or was receiving TriCare Extended Care Health Option (ECHO) at the time of separation from the military;
4. The eligible military personnel received an honorable discharge as indicated on the Certificate of Release or Discharge from Active Duty (DD 214 form); and
5. The eligible military personnel or eligible dependent meets the functional, program, and financial<sup>1</sup> eligibility requirements for the HCBS program.

## **II. Procedures**

### **A. Functional Eligibility Determination**

1. If an active or honorably discharged military personnel and/or immediate family member contacts, or is referred to, the state-contracted assessor for functional assessment, the assessor shall collect the DD 214 form, TriCare Echo verification documentation, and proof of residency.

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<sup>1</sup> Financial eligibility requirements are determined by the Kansas Department for Children and Families (DCF) until December 31, 2015. Financial eligibility requirements will be determined by the Kansas Department for Health and Environment beginning January 1, 2016.

- a. Documentation must be provided at time of assessment to determine eligibility for the Military Inclusion exception. An assessment must be completed within 30 days of termination of active duty or separation from military service to be considered for the Military Inclusion exception.
  - b. Supporting documentation verifying satisfaction of the military inclusion criteria shall be uploaded into the State's system of record at the time the assessment is uploaded and no later than within seven days of the assessment.
  - c. If the assessor is unable to verify Military Inclusion criteria at the time of assessment, a functional assessment shall be completed if the individual has reasonable indicators of being eligible for an HCBS program.
  - d. If the individual meets the functional eligibility but fails to meet the requirements for the Military Inclusion exception, then the individual may:
    - (1) Access an HCBS program in the same manner as any other person who is functionally eligible to receive services; or
    - (2) Be placed on the appropriate waiting list as of the date of functional eligibility, if the program the individual is eligible for has a waiting list for services.
2. If the assessor determines eligible military personnel or eligible dependent is functionally eligible:
  - a. The assessor shall submit the appropriate notification form to the State within one business day from the determination.
  - b. The notification form shall include information about whether the individual provided appropriate documentation that meets the Military Inclusion criteria.
  - c. For Autism, TA, IDD, TBI, and PD, a completed 3160/CDDO notification form (IDD only) is submitted to the KDADS HCBS program manager (KDADS PM) for program eligibility review.
  - d. For FE and SED, program eligibility is determined during functional assessment and the 3160 is submitted directly to DCF/KDHE for financial eligibility determination.
3. If the assessor determines the eligible military personnel or eligible dependent is not functionally eligible:
  - a. The assessor shall send a Notice of Action (NOA) to the individual with the reason he or she has been determined to be functionally ineligible for an HCBS program.
  - b. The assessor shall complete options counseling with active or honorably discharged military personnel and/or immediate family member to discuss alternative community options and services, including services available through the Veterans Affairs (VA) Administration.

## B. Program Eligibility Determination

1. The KDADS PM reviews the functional assessment and supporting documentation for program eligibility.
  - a.If approved, the KDADS PM shall submit the 3160 notification form to DCF/KDHE for financial eligibility determination and Notice of Action (NOA) to individual.
  - b.If denied, KDADS PM sends NOA with appeal rights to the individual.
2. If the eligible military personnel or eligible dependent meets the program eligibility but does not qualify for the Military Inclusion exception, then he or she may be placed on the appropriate waiting list, if applicable, as of the date of functional eligibility.

## C. Financial Eligibility

1. The medical assistance application is reviewed for financial eligibility determination by DCF/KDHE after receiving the appropriate Medicaid application.
2. Eligible dependents must meet the Medicaid eligibility criteria to be eligible for services under the KDADS HCBS programs.

## **Definitions**

**Assessment** – Face-to face interview and evaluation of an individual conducted in their home or community by a state-contracted assessor to determine an individual’s eligibility for the program and his/her formal support needs

**Financial Eligibility** – The process whereby a participant is determined to be eligible for health care coverage for reimbursement through Medicaid as determined by an authorized agent or personnel designated by the State.

**Functional Assessment** – the current CMS/KDADS approved tool used by a state-contracted Assessor to assess a person’s functional limitations and their need for assistance required in activities of daily living (ADLs) and instrumental activities of daily living (IADLs).

**Functional Eligibility** - The process whereby a participant is determined to meet the level of care need for an institutional setting to access a Medicaid-funded HCBS waiver program as determined by a state-contracted assessor.

**Immediate Family Members**- As defined by the Internal Revenue Service (IRS), a spouse, child, parent, brother, sister, grandparent, grandchild, step-parent, step-child, step-brother, or step-sister of the individual in the military (IRM 1.25.1.2.2) who is claimed on the military personnel’s federal income tax return as a dependent qualifying widower and dependent child, qualifying child or qualifying relative as established in the IRS Publication 501.

**Military Personnel** – active or reserve duty members of the armed forces including the United States Army, Navy, Marines, Air Force and Coast Guard as well as the activated Kansas National Guard.

**Program Eligibility** – The process whereby a participant is determined to be eligible for a Medicaid-funded KDADS HCBS waiver program as determined by an authorized agent or personnel designated by the State.

**Resident** – a citizen of the United States who has a fixed home in Kansas, does not intend to leave Kansas and whenever absent, if for temporary purposes, intends to return to Kansas as evidenced by several factors found in K.A.R. 92-12-4a, including, but not limited to, spending more than six months of the taxable year in Kansas, voting or being registered to vote in Kansas, obtaining or maintaining a current valid driver’s license or non-driver identification card, and paying

Kansas income and property taxes and that person's domicile is within Kansas.

**State-contracted Assessor** – Authorized agent or personnel, approved by the State, responsible for completing the functional eligibility instruments (FEI) for HCBS consumers.

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## Authority

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### Application for 1915(c) HCBS Waiver

KS.0224.R05.00 (IDD) – effective July 1, 2014  
KS.0304.R04.00 (PD) – effective January 1, 2015  
KS.4164.R05.00 (TBI) – effective July 1, 2014  
KS.0303.R04.00 (FE) – effective January 1, 2015  
KS.0476.R02.00 (Autism) – *pending* effective January 1, 2016  
KS.4165.R05.01 (TA) – effective January 1, 2014  
KS.009.04.00 (SED) – *pending* effective October 1, 2015

### Federal Authority

IRM 1.25.1.2.2 – Definition of Immediate Family  
IRS Publication 501 – Qualifying Child, Qualifying Relative and Qualifying Widower

### State Authority

K.S.A. 79-32,109 – Definition of Resident Individual  
K.A.R. 92-12-4a – Definition of Domicile for Residency Determination

## CONTACT INFORMATION

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## RELATED INFORMATION

Website links contained within this policy are provided as a courtesy and KDADS does not warrant continued accuracy of any such link.

### ***Related Policy:***

HCBS Waiver Eligibility Policy for Assessors

### ***Links:***

- Home and Community Based Services Renewal Information: [http://www.kdads.ks.gov/commissions/csp/home-community-based-services-\(hcbs\)/hcbs-program-renewal-information](http://www.kdads.ks.gov/commissions/csp/home-community-based-services-(hcbs)/hcbs-program-renewal-information)
- Veterans Military Service Record Requests: <http://www.archives.gov/veterans/military-service-records/>
- Standard Form 180 for Military Record Requests: <http://archives.gov/research/order/standard-form-180.pdf>

### **Other Resources**

- Kansas Commission on Veteran Affairs Office: <http://kcva.ks.gov/veteran-services/federal-benefits>
- DD214 website with links to the Army, Navy and Marine regulations and manuals and an example of the Certificate of Release or Discharge from Active Duty DD 214 form- <http://www.dd214.us/>